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3 SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR HB48  
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8 SYNOPSIS: Existing law pertaining to the dependency of  
9 minor children and the termination of parental  
10 rights provides a list of circumstances under which  
11 reasonable efforts to preserve and reunify a family  
12 prior to the placement of a child in foster care,  
13 to prevent or eliminate the need to remove a child  
14 from the child's home, and to make it possible for  
15 a child to return safely to the child's home, may  
16 not be required.

17 Existing law also provides a list of factors  
18 for a juvenile court to consider in making a  
19 determination of whether to terminate parental  
20 rights.

21 This bill would provide that reasonable  
22 efforts to preserve and reunify a family prior to  
23 the placement of a child in foster care, to prevent  
24 or eliminate the need to remove a child from the  
25 child's home, and to make it possible for a child  
26 to return safely to the child's home, may not be  
27 required in a case where a parent has been

1 convicted for the crime against the child of rape  
2 in the first degree, sodomy in the first degree, or  
3 incest.

4 This bill would also require a juvenile  
5 court to find that a parent is unable to properly  
6 care for a child and to discharge his or her  
7 responsibilities to and for the child in any case  
8 where the parent has received a conviction for the  
9 crime against the child of rape in the first  
10 degree, sodomy in the first degree, or incest, and  
11 shall terminate the parental rights of the parent.

12  
13 A BILL  
14 TO BE ENTITLED  
15 AN ACT  
16

17 To amend Sections 12-15-312 and 12-15-319, Code of  
18 Alabama 1975, to create Jessi's law; to provide that  
19 reasonable efforts to preserve and reunify a family prior to  
20 the placement of a child in foster care, to prevent or  
21 eliminate the need to remove a child from the child's home,  
22 and to make it possible for a child to return safely to the  
23 child's home, may not be required in a case where a parent has  
24 been convicted for the crime against the child of rape in the  
25 first degree, sodomy in the first degree, or incest; and to  
26 require a juvenile court to find that a parent is unable to  
27 properly care for a child and to discharge his or her

1 responsibilities to and for the child in any case where the  
2 parent has received a conviction for the crime against the  
3 child of rape in the first degree, sodomy in the first degree,  
4 or incest, and shall terminate the parental rights of the  
5 parent.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. This act shall be known and may be cited  
8 as Jessi's Law.

9 Section 2. Sections 12-15-312 and 12-15-319, Code of  
10 Alabama 1975, are amended to read as follows:

11 "§12-15-312.

12 "(a) When the juvenile court enters an order  
13 removing a child from his or her home and places the child  
14 into foster care or custody of the Department of Human  
15 Resources pursuant to this chapter, the order shall contain  
16 specific findings, if warranted by the evidence, within the  
17 following time periods while making child safety the paramount  
18 concern:

19 "(1) In the first order of the juvenile court that  
20 sanctions the removal, whether continuation of the residence  
21 of the child in the home would be contrary to the welfare of  
22 the child. This order may be the pick-up order that the  
23 juvenile court issues on the filing of a dependency petition.

24 "(2) Within 60 days after the child is removed from  
25 the home of the child, whether reasonable efforts have been  
26 made to prevent removal of the child or whether reasonable  
27 efforts were not required to be made.

1           "(3) Within 12 months after the child is removed  
2           from the home of the child and not less than every 12 months  
3           thereafter during the continuation of the child in out-of-home  
4           care, whether reasonable efforts have been made to finalize  
5           the existing permanency plan.

6           "(b) As used in this chapter, reasonable efforts  
7           refers to efforts made to preserve and reunify families prior  
8           to the placement of a child in foster care, to prevent or  
9           eliminate the need for removing the child from the home of the  
10          child, and to make it possible for a child to return safely to  
11          the home of the child. In determining the reasonable efforts  
12          to be made with respect to a child, and in making these  
13          reasonable efforts, the health and safety of the child shall  
14          be the paramount concern. If continuation of reasonable  
15          efforts is determined to be inconsistent with the permanency  
16          plan for the child, reasonable efforts shall be made to place  
17          the child in a timely manner in accordance with the permanency  
18          plan including, if appropriate, through an interstate  
19          placement, and to complete whatever steps are necessary to  
20          finalize a permanent plan for the child.

21          "(c) Reasonable efforts shall not be required to be  
22          made with respect to a parent of the child if the juvenile  
23          court has determined that the parental rights of the parent to  
24          a sibling of the child have been involuntarily terminated or  
25          that a parent has done any of the following:

26                 "(1) Subjected a child to an aggravated circumstance  
27                 against the child or a sibling of the child and the risk of

1 child abuse or neglect is too high for the child to remain at  
2 home safely or to be returned home. An aggravated circumstance  
3 includes, but is not limited to, ~~rape, sodomy, incest,~~  
4 aggravated stalking, abandonment, torture, or chronic abuse,  
5 ~~or sexual abuse~~. An aggravated circumstance may also include  
6 any of the following:

7 "a. Allowing a child to use alcohol or illegal drugs  
8 to the point of abuse, neglect, or substantial risk of harm.

9 "b. Substance misuse or abuse, or both, by a parent  
10 or interfering with the ability to keep the child safe and  
11 refusal of a parent to participate in or complete treatment,  
12 or where treatment has been unsuccessful.

13 "c. A parent demonstrating extreme disinterest in  
14 the child by doing either of the following:

15 "1. Not complying with the steps outlined in the  
16 individualized service plan or case plan over a period of six  
17 months.

18 "2. Repeatedly leaving the child with someone who is  
19 unwilling or incapable of providing care and not returning for  
20 the child as promised.

21 "d. Abandoning an infant or young child when the  
22 identity of the child is unknown and the parent is unknown or  
23 unable to be located after a diligent search.

24 "e. When the parent has an emotional or mental  
25 condition and there is clearly no treatment that can improve  
26 or strengthen the condition enough to allow the child to  
27 remain at home safely or to return home safely.

1           "f. When a parent is incarcerated and the child is  
2           deprived of a safe, stable, and permanent parent-child  
3           relationship.

4           "(2) Committed murder or manslaughter of another  
5           child or murder or manslaughter of the other parent of the  
6           child.

7           "(3) Been convicted of rape in the first degree  
8           pursuant to Section 13A-6-61, sodomy in the first degree  
9           pursuant to Section 13A-6-63, or incest pursuant to Section  
10           13A-13-3. The juvenile court shall make a finding that the  
11           crime of rape, sodomy, incest, or other sexual abuse actually  
12           occurred by the parent against a child in any instance where  
13           the parent has been convicted as described in this  
14           subdivision.

15           "~~(3)~~ (4) Aided or abetted, attempted, conspired, or  
16           solicited to commit murder or manslaughter of another child or  
17           aided or abetted, attempted, conspired, or solicited to commit  
18           murder or manslaughter of the other parent of the child.

19           "~~(4)~~ (5) Committed a felony assault which resulted in  
20           serious bodily injury to the child or another child or to the  
21           other parent of the child. The term serious bodily injury  
22           means bodily injury which involves substantial risk of death,  
23           extreme physical pain, protracted and obvious disfigurement,  
24           or protracted loss or impairment of the function of a bodily  
25           member, organ, or mental faculty.

26           "(d) Nothing in the exceptions to making reasonable  
27           efforts listed in subsection (c) shall be interpreted to

1 require the reunification of a child with a stepparent or  
2 paramour of a parent under similar circumstances. The crimes  
3 listed in subsection (c) may include those from other states  
4 or federal crimes if the elements of the crimes are  
5 substantially similar to those crimes in this state.

6 "(e) If reasonable efforts are not made with respect  
7 to a child as a result of a determination made by a juvenile  
8 court in situations as described above, a permanency hearing,  
9 as provided in Section 12-15-315, in which in-state or  
10 out-of-state placement options for the child are considered,  
11 shall be held for the child within 30 days after the  
12 determination. Reasonable efforts shall be made to place the  
13 child in a timely manner in accordance with the permanency  
14 plan and to complete whatever steps are necessary to finalize  
15 permanent placement of the child. Reasonable efforts to place  
16 a child for adoption or with a legal guardian or legal  
17 custodian, including identifying appropriate in-state and  
18 out-of-state placements, may be made concurrently with other  
19 reasonable efforts.

20 "§12-15-319.

21 "(a) If the juvenile court finds from clear and  
22 convincing evidence, competent, material, and relevant in  
23 nature, that the parents of a child are unable or unwilling to  
24 discharge their responsibilities to and for the child, or that  
25 the conduct or condition of the parents renders them unable to  
26 properly care for the child and that the conduct or condition  
27 is unlikely to change in the foreseeable future, it may

1 terminate the parental rights of the parents. In determining  
2 whether or not the parents are unable or unwilling to  
3 discharge their responsibilities to and for the child and to  
4 terminate the parental rights, the juvenile court shall  
5 consider the following factors including, but not limited to,  
6 the following:

7 "(1) That the parents have abandoned the child,  
8 provided that in these cases, proof shall not be required of  
9 reasonable efforts to prevent removal or reunite the child  
10 with the parents.

11 "(2) Emotional illness, mental illness, or mental  
12 deficiency of the parent, or excessive use of alcohol or  
13 controlled substances, of a duration or nature as to render  
14 the parent unable to care for needs of the child.

15 "(3) That the parent has tortured, abused, cruelly  
16 beaten, or otherwise maltreated the child, or attempted to  
17 torture, abuse, cruelly beat, or otherwise maltreat the child,  
18 or the child is in clear and present danger of being thus  
19 tortured, abused, cruelly beaten, or otherwise maltreated as  
20 evidenced by the treatment of a sibling.

21 "(4) Conviction of and imprisonment for a felony.

22 "(5) Commission by the parents of any of the  
23 following:

24 "a. Murder or manslaughter of another child of that  
25 parent.



1            "b. Aiding, abetting, attempting, conspiring, or  
2            soliciting to commit murder or manslaughter of another child  
3            of that parent.

4            "c. A felony assault or abuse which results in  
5            serious bodily injury to the surviving child or another child  
6            of that parent. The term serious bodily injury shall mean  
7            bodily injury which involves substantial risk of death,  
8            extreme physical pain, protracted and obvious disfigurement,  
9            or protracted loss or impairment of the function of a bodily  
10           member, organ, or mental faculty.

11           "(6) Unexplained serious physical injury to the  
12           child under those circumstances as would indicate that the  
13           injuries resulted from the intentional conduct or willful  
14           neglect of the parent.

15           "(7) That reasonable efforts by the Department of  
16           Human Resources or licensed public or private child care  
17           agencies leading toward the rehabilitation of the parents have  
18           failed.

19           "(8) That parental rights to a sibling of the child  
20           have been involuntarily terminated.

21           "(9) Failure by the parents to provide for the  
22           material needs of the child or to pay a reasonable portion of  
23           support of the child, where the parent is able to do so.

24           "(10) Failure by the parents to maintain regular  
25           visits with the child in accordance with a plan devised by the  
26           Department of Human Resources, or any public or licensed  
27           private child care agency, and agreed to by the parent.

1           "(11) Failure by the parents to maintain consistent  
2           contact or communication with the child.

3           "(12) Lack of effort by the parent to adjust his or  
4           her circumstances to meet the needs of the child in accordance  
5           with agreements reached, including agreements reached with  
6           local departments of human resources or licensed child-placing  
7           agencies, in an administrative review or a judicial review.

8           "(b) If a parent has been convicted of rape in the  
9           first degree pursuant to Section 13A-6-61, sodomy in the first  
10           degree pursuant to Section 13A-6-63, or incest pursuant to  
11           Section 13A-13-3, the juvenile court shall make a finding that  
12           the parent is unable to properly care for a child and to  
13           discharge his or her responsibilities to and for a child, and  
14           shall terminate the parental rights of the parent.

15           "~~(b)~~ (c) A rebuttable presumption that the parents  
16           are unable or unwilling to act as parents exists in any case  
17           where the parents have abandoned a child and this abandonment  
18           continues for a period of four months next preceding the  
19           filing of the petition. Nothing in this subsection is intended  
20           to prevent the filing of a petition in an abandonment case  
21           prior to the end of the four-month period."

22           Section 3. This act shall become effective on the  
23           first day of the third month following its passage and  
24           approval by the Governor, or its otherwise becoming law.